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PATENT

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ea  
7/30/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Annette Crevasse, et al.

Serial No.: 09/992,135

Filed: November 14, 2001

For: A METHOD OF ELIMINATING AGGLOMERATE  
PARTICLES IN A POLISHING SLURRY

Group No.: 1765

Examiner: Kin Chan Chen

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GROUP 1700

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Sir:

ELECTION OF CLAIMS

In response to the Official Action of June 23, 2003, Applicant hereby elects, with traverse, Claims 17- 23, comprising Group I.

Applicant submits that the restriction requirement is improper. The Foreword to the MPEP states: "The Manual does not have the force of law. 35 USC 121, the law, states in relevant part: "If two or more independent AND distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." Emphasis added. The


Examiner has only argued that the inventions are distinct. The Examiner has not also argued, as is required by statute, that they are also independent, a much greater burden. Therefore, Applicants respectfully request that the restriction requirement be withdrawn.

Additionally, the Applicants believe that neither of the conditions of MPEP §806.05(f) are met because, first, the process as claimed cannot be used to make an other and materially different product. Claim 17 specifically recites forming an active device on a semiconductor wafer. It is well understood that such a device would constitute at least a portion of an integrated circuit as recited in Claims 24-27. Second, the product as claimed cannot be made by another and materially different process because Claims 24-27 specifically recite that the apparatus be made by the method of Claim 17. Thus, the inventions are not distinct as required by the MPEP.

Group II (Claims 24-27) are canceled pursuant to 37 C.F.R. § 1.142(b), if the Examiner does not withdraw the Election Requirement.

Respectfully submitted,

**HITT GAINES, P.C.**

  
\_\_\_\_\_  
Greg H. Parker  
Registration No. 44,995

Date: \_\_\_\_\_

P.O. Box 832570  
Richardson, Texas 75083  
(972) 480-8800